



DEPARTMENT OF TRANSPORTATION

[4910-RY]

Federal Highway Administration

Notice of Final Federal Agency Actions on Proposed Highway in West Virginia

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Limitation on Claims for Judicial Review of Actions by FHWA.

SUMMARY: This notice announces action taken by FHWA and that are final.

This final agency action relates to a proposed highway project, improvements to US 340, from the Charles Town Bypass in Jefferson County, West Virginia to just south of the state boundary in Clarke County, Virginia. This decision will be used by Federal agencies in subsequent proceedings, including decisions to grant licenses, permits, and approvals for the proposed highway project. The FHWA's Record of Decision (ROD) provides details on the Selected Alternative for the proposed improvements.

DATES: By this notice, FHWA is advising the public of final agency actions subject to 23 U.S.C. 139(/)(1). A claim seeking judicial review of the Federal agency actions on the highway project will be barred unless the claim is filed on or before **[INSERT DATE 150 DAYS AFTER PUBLICATION IN THE *FEDERAL REGISTER*]**. If the Federal law that authorizes judicial review of a claim provides a time period of less than 150 days for filing such claim, then that shorter time period still applies.

FOR FURTHER INFORMATION CONTACT: For FHWA: Jason Workman,

Director of Program Development, Federal Highway Administration, West Virginia Division, 154 Court Street Charleston, WV 25301; (304)-347-5271; Jason.Workman@dot.gov. The FHWA West Virginia Division Office's normal business hours are 8 a.m. to 5 p.m. (Eastern Time). For the West Virginia Division of Highways (WVDOH): Ben Hark, Environmental Section Head in the Engineering Division of West Virginia Division of Highways, 1334 Smith Street Charleston, WV 25301; (304) 558-9670, Ben.L.Hark@wv.gov. The WVDOH Office's normal business hours are 8 a.m. to 5 p.m. (Eastern Time).

SUPPLEMENTARY INFORMATION: Notice is hereby given that FHWA has taken a final agency action by issuing its ROD for the following highway project in the State of West Virginia: Widening of US 340 from two lanes to four lanes, from the Charles Town Bypass in Jefferson County, West Virginia to just south of the state boundary in Clarke County, Virginia. The length of the project is approximately 4.5 miles.

The project proposes to widen US 340 from two lanes to four lanes. The project is included in WVDOH's adopted 2016-2021 State Transportation Improvement Plan (STIP) as project number U3 1 934000000 and is scheduled for right of way acquisition and construction to begin in fiscal year 2020, being let as a design-build contract. The project is also included in the Hagerstown/Eastern Panhandle Metropolitan Planning Organization (HEPMPO) Transportation Improvement Program (TIP) (FY 2019-2022) and *Direction 2045 Long Range Transportation Plane Update* (April 11, 2018).

The FHWA's action, related actions by other Federal agencies, and the laws under which such actions were taken, are described in the Environmental Impact Statement (EIS) approved on April 16, 2019, the ROD approved on August 22, 2019, and other documents in the project file. The EIS and ROD are available for review by contacting FHWA or WVDOH at the addresses provided above. In addition, these documents can be viewed and downloaded from the project web site at:

<https://transportation.wv.gov/highways/engineering/comment/closed/us340/Pages/default.aspx>. This notice applies to all Federal agency decisions as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to:

1. General: National Environmental Policy Act (NEPA) [42 U.S.C. 4321-4351]; Federal-Aid Highway Act [23 U.S.C. 109 and 23 U.S.C. 128].
2. Air: Clean Air Act [42 U.S.C. 7401-7671(q)].
3. Land: Section 4(f) of the Department of Transportation Act of 1966 [49 U.S.C. 303 and 23 U.S.C. 138]; Landscaping and Scenic Enhancement (Wildflowers) [23 U.S.C. 319].
4. Wildlife: Endangered Species Act (ESA) (16 U.S.C. 1531-1544 and Section 1536), Anadromous Fish Conservation Act [16 U.S.C. 757(a)- 757(g)], Fish and Wildlife Coordination Act [16 U.S.C. 661-667(d)], Migratory Bird Treaty Act [16 U.S.C. 703-712], Magnuson-Stevenson Fishery Conservation and Management Act of 1976, as amended [16 U.S.C. 1801 *et seq.*].

5. Historic and Cultural Resources: Section 106 of the National Historic Preservation Act of 1966, as amended [16 U.S.C. 470(f) *et seq.*]; Archeological Resources Protection Act of 1977 (16 U.S.C. 470(aa)-470(11)); Archeological and Historic Preservation Act [16 U.S.C. 469-469(c)]; Native American Grave Protection and Repatriation Act (NAGPRA) [25 U.S.C. 3001-3013].
6. Social and Economic: Civil Rights Act of 1964 [42 U.S.C. 2000(d)-2000(d)(1)]; American Indian Religious Freedom Act [42 U.S.C. 1996]; Farmland Protection Policy Act (FPPA) [7 U.S.C. 4201-4209].
7. Wetlands and Water Resources: Safe Drinking Water Act (SOWA) [42 U.S.C.300(t)-300(i)(6)]; Wild and Scenic Rivers Act [16 U.S.C. 1271-1287]; Flood Disaster Protection Act [42 U.S.C. 4001-4128].
8. Hazardous Materials: Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) [42 U.S.C. 9601-9675]; Superfund Amendments and Reauthorization Act of 1986 (SARA); Resource Conservation and Recovery Act (RCRA) [42 U.S.C. 6901-6992(k)].
9. Executive Orders: E.O. 11990 Protection of Wetlands; E.O. 11988 Floodplain Management; E.O. 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations; E.O. 11593 Protection and Enhancement of Cultural Resources; E.O. 13007 Indian Sacred Sites; E.O. 13287 Preserve America; E.O. 13175 Consultation and Coordination with Indian Tribal Governments; E.O. 11514 Protection and Enhancement of Environmental Quality; E.O. 13112 Invasive

Species.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Authority: 23 U.S.C. 139(*l*)(1).

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Charleston, West Virginia.

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